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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/366,114	08/02/1999	ROBERT O. STUART	STUART-ISAM	2676

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EXAMINER

SING, SIMON P

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/366,114

Applicant(s)

STUART ET AL. 

Examiner

Simon Sing

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-3, 8, 9 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Pinsley et al. US Patent No. 6,070,145.

2.1 Regarding claims 1 and 8, Pinsley discloses method and system for network-based survey in figure 1. Pinsley teaches establishing communication links between customers 6 and 7, and advertiser's web site 1 [communications server] (column 2, lines 27-38, 51-53); providing information service to the customers via the communication link (column 1, lines 25-29); requesting the customer to provide

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feedback data before the customer terminates said communication link; and if a feedback is provided, associating the feedback with the advertiser's web site data (column 2, lines 51-59; column 3, lines 5-8).

2.2 Regarding claims 2 and 9, Pinsley discloses a surveyor's web site 3, which inherently has a storage device for storing the customer's feedback (column 3, lines 5-8).

2.3 Regarding claims 3 and 11, Pinsley teaches sampling the Nth customer (column 2, lines 27-38).

3. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Homayoun US Patent No. 5,970,121.

3.1 Regarding claim 1 and 8, Homayoun discloses a method and apparatus for obtaining feedback regarding data network service in figure 1. Homayoun teaches establishing communication links between customers 14, 16, 20, 22 and local area service provider 12 [communications server] (column 3, lines 56-67; column 4, lines 1-2); providing a service to the customers via the communication link (column 3, lines 56-67, column 4, lines 1-2); requesting the customer to provide feedback data before the customer terminates said communication link; and if a feedback is provided, associating the feedback with the local area service provider's service data (column 3, lines 33-47).

3.2 Regarding claims 2, 9 and 10, Homayoun discloses a service response database 24, which has a storage device for storing the customer's feedback (column 5, lines 62-67; column 6, lines 1-6; figure 9, step 212).

3.3 Regarding claims 3 and 11, Homayoun teaches providing some mechanism for identifying which of its customers will be providing feedbacks (column 4, lines 66-67; column 5, lines 1-6).

3.4 Regarding claims 4, 5, 12 and 13, Homayoun teaches that the local service provider is a local exchange carrier (LEC), which inherently provides operator assistant service to a customer, with information relating to a third party, such as telephone directory, collect call, etc. (column 3, lines 56-59).

3.5 Regarding claims 6 and 14, Homayoun discloses a data/information processor 25 for analyzing of feedback data (column 4, lines 21-23, 29-35, 45-51).

3.6 Regarding claims 7 and 15, Homayoun teaches that of feedback data are entered by a telephone keypad (column 7, lines 12-13).

4. Claims 16-19, 22, 23, 29-31 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Shaffer et al. US Patent No. 6,363,145.

4.1 Regarding claims 16 and 29, Shaffer discloses an apparatus and method for automatic call monitoring in figures 1-3. Shaffer teaches establishing a communication link originated by a customer to a service provider (column 2, lines 36-38; column 4, lines 17-18); monitoring an exchange of information relating to a service (column 2, lines 36-38; column 6, lines 25-28); and triggering an action (column 6, lines 33-35, 61-65) if a predetermined condition is detected (column 4, lines 44-51; column 7, lines 10-18).

4.2 Regarding claims 17 and 30, Shaffer teaches that the communication link is an ISDN (column 4, lines 6-11).

4.3 Regarding claims 18 and 31, Shaffer teaches that the predetermined condition includes a change in voice volume (column 7, lines 10-18).

4.4 Regarding claim 19, Shaffer teaches that the exchange of information between a customer and a live agent (column 2, lines 36-38; column 4, lines 17-18), and the predetermined change includes a change in tonal quality in utterances originating from either the customer or the agent (column 4, lines 44-51).

4.5 Regarding claims 22 and 34, Shaffer teaches alerting a live agent before the communication link is terminated (column 5, lines 46-50; column 6, lines 61-65).

4.6 Regarding claim 23, Shaffer teaches alerting a second live agent before the communication link is terminated (column 5, lines 46-50; column 6, lines 48-52).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 20, 21, 26, 32, 33 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al. US Patent No. 6,363,145 in view of Campbell et al US Patent No. 6,427,002.

6.1 Regarding claims 20, 21 and 32, Shaffer teaches monitoring call session between a live agent and a customer, and triggering a predetermined action if a predetermined condition occurs. Shaffer also teaches transferring a call (column 8, lines 7-11). Shaffer fails to teach that the predetermined condition includes a predetermined word, utters by either the customer or the agent.

However, Campbell discloses a voice response service note. Campbell teaches routing a customer's incoming call to a call center (column 1, lines 52-55; column 3, lines 54-63), monitoring the incoming call, and alarming a management workstation (column 8, lines 9-16). Campbell also teaches voice recognition (column 4, lines 41-45;

column 5, lines 23-31), collecting caller's input and transferring an incoming call (column 5, lines 17-23; column 8, lines 7-9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shaffer's reference with the teaching of Campbell, so that a voice recognition unit would have been included and a customer's word from an utterance, such as "transfer" requesting of transferring a call to a manager, would have been recognized, because such a modification would have immediately transferring an incoming call to a manager even the incoming call was not monitored by the manager.

6.2 Regarding claims 26 and 37, Shaffer teaches monitoring a call session between a live agent and a customer, and triggering a predetermined action if a predetermined condition occurs. Shaffer fails to teach that the predetermined condition includes requesting a feedback from the customer.

However, Campbell discloses a voice response service note. Campbell teaches routing a customer's incoming call to a call center (column 1, lines 52-55; column 3, lines 54-63), monitoring the incoming call, and alarming a management workstation (column 8, lines 9-16). Campbell also teaches other services including requesting a customers' feedbacks (column 1, lines 52-55).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shaffer's reference with the teaching of Campbell, so that a customer's feedback would have been requested, because such a



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modification would have help the system to improve it service based on the feedbacks from customers.

6.3 Regarding claim 33, Shaffer teaches monitoring call session between a live agent and a customer, and triggering a predetermined action if a predetermined condition occurs. Shaffer also teaches transferring a call (column 8, lines 7-11). Shaffer fails to teach that the predetermined condition includes a key entry recognition subsystem.

However, Campbell discloses a voice response service note. Campbell teaches routing a customer's incoming call to a call center (column 1, lines 52-55; column 3, lines 54-63), monitoring the incoming call, and alarming a management workstation (column 8, lines 9-16). Campbell also teaches collecting caller's DTMF input from a telephone keypad (column 8, lines 7-9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shaffer's reference with the teaching of Campbell, so that a key entry recognition unit would have been included and a customer's DTMF input would have been recognized, because such a modification would have enabled a customer to interrupt the call session activating a new call function such as a customer surveys and call transfers.

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7. Claims 24, 25, 27, 28, 35, 36, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al. US Patent No. 6,363,145 in view of Maloney et al US Patent No. 5,696,811.

7.1 Regarding claims 24, 25, 35 and 36, Shaffer teaches monitoring a call session between a live agent and a customer, and triggering a predetermined action if a predetermined condition occurs. Shaffer fails to teach the predetermined action includes recording the conversation between a customer and an agent.

However, Maloney discloses a method and system for automatically monitoring the performance quality of call center agents in figures 1-11. Maloney teaches recording a call session for playback by a manager or supervisor as a way of monitoring an agent's performance (column 5, lines 53-58; column 6, lines 10-16).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shaffer's reference with the teaching of Maloney, so that the predetermined action would have included recording of a call session, because such a modification would have enabled a manager to review the performance of an agent when the manager was not able to monitor the call session in real time.

7.2 Regarding claims 27 and 38, Shaffer teaches monitoring call sessions between live agents and customers (column 4, lines 6-11). Shaffer fails to teach monitoring call sessions on an intermittent sampling basis.

However, Maloney discloses a method and system for automatically monitoring the performance quality of call center agents in figures 1-11. Maloney teaches monitoring call sessions intermittently (column 5, lines 17-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shaffer's reference with the teaching of Maloney, so that the monitoring would have been done on an intermittent sampling basis, because such a modification would have enabled a system with limited monitoring devices to monitor all agents.

7.3 Regarding claim 28, Shaffer teaches monitoring a call session between a live agent and a customer, and triggering a predetermined action if a predetermined condition occurs. Shaffer teaches serving a plurality of customers (column 4, lines 6-11). Shaffer fails to teach monitoring call sessions on an intermittent sampling basis.

However, Maloney discloses a method and system for automatically monitoring the performance quality of call center agents in figures 1-11. Maloney teaches monitoring call sessions intermittently (column 5, lines 17-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shaffer's reference with the teaching of Maloney, so that the monitoring would have been done on an intermittent sampling basis, because such a modification would have enabled a system with limited monitoring devices to monitor all agents.

7.4 Regarding claim 39, Shaffer teaches monitoring a call session between a live agent and a customer. Shaffer indicates communicating with a plurality of customers (column 4, lines 6-11). Shaffer discloses a digital signal processor 22 (column 4, lines 34-39) for alerting a live agent (column 6, lines 61-65) if a voice pattern changes (column 4, lines 44-51). Shaffer fails to teach monitoring call sessions on an intermittent sampling basis.

However, Maloney discloses a method and system for automatically monitoring the performance quality of call center agents in figures 1-11. Maloney teaches monitoring call sessions intermittently (column 5, lines 17-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shaffer's reference with the teaching of Maloney, so that the monitoring would have been done on a intermittent sampling basis, because such a modification would have enabled a system with limited monitoring devices to monitor all agents.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Simon Sing whose telephone number is (703) 305-3221. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached at (703) 305-4895. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.



S.S.

10/16/2002

FAN TSANG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600



**Attachment for PTO-948 (Rev. 03/01, or earlier)**  
**6/18/01**

**The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.**

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes **incorporated** therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.